

## **REMARKS**

### **INTRODUCTION**

In accordance with the foregoing, claims 1, 2, 4, 6, 8, and 18 have been amended. No new matter is being presented, and approval and entry are respectfully requested. Claims 7, 10-17, and 19-20 are presently withdrawn from consideration.

Claims 1-6, 8, 9, and 18 are pending and under consideration. Reconsideration is respectfully requested.

### **REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH**

In the Office Action, at page 2, claim 6 was rejected under 35 U.S.C. §112, first paragraph. This rejection is traversed and reconsideration is requested.

The Examiner states that “[t]here is no mention of when the locking member cancels the lock when inserting a door into the pod.” Applicant respectfully asserts that, as stated in the claim and in the originally filed Specification, at least in paragraph 19 on page 4, that “the locking member cancels the lock **in an initial stage** of the inserting operation for **inserting the cover into the opening of the pod.**” The locking member does not cancel the lock when inserting a door into the pod, as contended by the Examiner. Thus, Applicant respectfully requests that this rejection be withdrawn.

### **REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

In the Office Action, at pages 2-3, claims 2, 4-6, and 18 were rejected under 35 U.S.C. §112, second paragraph, for the reasons set forth therein. This rejection is traversed and reconsideration is requested.

Claims 2 and 4 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 1, in its amended form, recites “a plane of the base member.” Support for the amendments to claims 1, 2, and 4 can be found in the originally filed Specification, at least in Figure 1. Thus, Applicant respectfully submits that amended dependent claims 2 and 4, which both recite “the plane of the base plate” have

sufficient antecedent basis, as both claims depend, either directly or indirectly, from amended independent claim 1. Accordingly, Applicant respectfully requests that this rejection of claims 2 and 4 be withdrawn.

Claim 6 was also rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner contended that "it is not clear how the cover can be returned and aligned with the pod if it is not securely engaged with the port door." Applicant respectfully disagrees with the Examiner. Even if the cover is not locked to the port door, it may still be securely engaged because of positioning pins 14a and 14b. These positioning pins are then released before the cover is locked to the pod. See Specification at page 14, paragraph 68. Thus, Applicant respectfully submits that the lock must be cancelled in an initial stage of the insertion operation so that cover can properly align and engage with the pod. Accordingly, Applicant respectfully requests that this rejection of claim 6 be withdrawn.

Claims 5, 6, and 18 were rejected under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. Applicant respectfully disagrees with the Examiner. As claims 5, 6, and 18 are all apparatus claims, Applicant respectfully submits that essential steps cannot be omitted from these claims. Further, regarding the Examiner's statement that these claims "do not add any structural limitations to the claims from which they depend," Applicant respectfully submits that the limitations added in these claims are functional recitations for specifically claimed structural elements, rather than method steps. "Applicant may use functional language . . . or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought." MPEP § 2173.01, see *also In re Swinehart*, 439 F.2d 210, 160 USPQ 226 (CCPA 1971). Accordingly, Applicant respectfully requests that this rejection of claims 5, 6, and 18 be withdrawn.

#### **REJECTION UNDER 35 U.S.C. §102(a)**

In the Office Action at pages 3-5, claims 1, 2, and 4 were rejected under 35 U.S.C. §102(a) as being anticipated by U.S. Patent No. 6,530,736 to Rosenquist. This rejection is traversed and reconsideration is requested.

Independent claim 1, in its newly amended form, recites that the position adjusting member is “movable in a plane vertical to a plane of the base member,” as shown in Figure 1. The position adjusting member or position adjusting plate of the present invention can therefore be fine adjusted in every direction in a plane vertical (perpendicular) to a plane of the base member or base plate. In the plane of the contact surface of the port door, for example, the position adjusting member or plate can be moved up, down, left, and/or right through guide plate 28. Guide plate 28 is movably squeezed by balls 24 and 27. See Specification at paragraph 34, page 8. The fine adjustment mechanism 20 is provided in the four corners of the position adjusting plate 13B. This allows for removing the cover without causing collisions between any of the parts of the pod.

In contrast, Rosenquist, as shown in Figure 11, has a first pivotal mount 164, which allows pivoting of the port door 104 about a vertical axis through the first pivotal mount 164. A second pivotal mount 168 allows pivoting of port door 104 about a horizontal axis through second pivotal mount 168. Such a fine adjustment mechanism allows for pod door 22 to become correctly aligned when the front surface of the pod door 22 is not parallel to the plane of the port door 104 when the pod door 22 finally advances to the port door 104. Accordingly, the fine adjustment mechanism of Rosenquist does not allow for movement in a plane vertical to the plane of the base member, for example, in the plane of the contact surface of the port door.

Thus, Applicant respectfully submits that amended independent claim 1 patentably distinguishes over Rosenquist. As dependent claims 2 and 4 depend either directly or indirectly from independent claim 1, Applicant respectfully submits that these claims also patentably distinguish over Rosenquist. Accordingly, Applicant respectfully submits that claims 1, 2, and 4 are in condition for allowance.

#### **REJECTION UNDER 35 U.S.C. §103(a)**

In the Office Action at page 5, claims 3, 5, and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rosenquist. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

As dependent claims 3, 5, and 18 depend indirectly from claim 1, Applicant respectfully submits that these claims patentably distinguish over Rosenquist for at least the reasons set forth. Accordingly, Applicant respectfully submits that these claims are in condition for allowance.

In the Office Action at pages 5-6, claims 8 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rosenquist in view of U.S. Patent No. 5,775,837 to Schneider. The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

In the Office Action at page 6, the Examiner acknowledged that "Rosenquist does not teach the position securing device to be pneumatically actionable." Thus, Applicant respectfully submits that Rosenquist alone cannot anticipate the present invention. Rosenquist is directed to a SMIF load port interface including a smart port door. Schneider, however, is directed to inflatable plugs for installing erosion control blocks. Therefore, Applicant respectfully submits that the teachings of Rosenquist and Schneider are directed to unrelated arts. Accordingly, it is respectfully submitted that it would not have been obvious to one of ordinary skill in the art to combine Rosenquist and Schneider to disclose the features as recited in claims 8 and 9 of the present invention.

MPEP § 2142 states that "[w]hen the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper." The Examiner is required to present actual evidence and make particular findings related to the motivation to combine the teachings of the references. In re Kotzab, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000); In re Dembiczak, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of multiple references, standing alone, are not "evidence." Dembiczak, 50 USPQ2d at 1617. "The factual inquiry whether to combine the references must be thorough and searching." In re Lee, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002) (citing McGinley v. Franklin Sports, Inc., 60 USPQ2d 1001, 1008 (Fed. Cir. 2001)). The factual inquiry must be based on objective evidence of record, and cannot be based on subjective belief and unknown authority. Id. at 1433-34. The Examiner must explain the reasons that one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious. In re Rouffet, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998).

The Examiner has not presented any evidence why Rosenquist and Schneider would have been combined. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. MPEP § 2143.01. Specifically, there must be a suggestion or motivation in the references to make the combination or modification. Id. The Examiner's sole support for such a combination is that it would "allow the port door to be secured to a pod cover with no mechanical sliding parts, thereby reducing the amount of debris generated in the mating of the port door and the pod cover." The Examiner cannot rely on the benefit of the combination without first supporting the motivation to make the combination. Such motivation does not appear anywhere in either of the references, and the Examiner has not presented any actual evidence in support of the same. Instead, the Examiner relies on broad conclusory statements, subjective belief, and unknown authority. Such a basis does not adequately support the combination of references. Accordingly, Applicant respectfully submits that the combination is improper and the rejection must be withdrawn.

## **CONCLUSION**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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